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Patent Docket P1829R1  
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5/31/03

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  Robert D. Mass  Serial No.: 09/863,101  Filed: May 18, 2001  For: GENE DETECTION ASSAY FOR IMPROVING THE LIKELIHOOD OF AN EFFECTIVE RESPONSE TO AN ERBB ANTAGONIST CANCER THERAPY	Group Art Unit: 1642  Examiner: Misook Yu  Certificate of Facsimile Transmission Under 37 CFR § 1.8 In accordance with CFR § 1.6(d), this correspondence addressed to The Patent and Trademark Office, Washington, DC 20231 is being transmitted to facsimile No. (703) 305-3014  May 29, 2003 Wendy M. Lee
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AMENDMENT UNDER 37 C.F.R. §1.111

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the Office Action dated December 31, 2002 (for which a 2 month extension of time is submitted herewith), reconsideration of the present application is respectfully requested in view of the following amendments and remarks.

IN THE CLAIMS:

Please amend the pending claims as follows:

21. (Amended) A method for identifying a patient disposed to respond favorably to a HER2 antagonist for treating breast cancer, which method comprises detecting her2 gene amplification in tumor cells in a tissue sample from the patient and treating the patient with her2 gene amplification with the HER2 antagonist in an amount effective to treat the breast cancer.

Please cancel claims 22-23 without prejudice or disclaimer.

Please add the following claims: